

The Administrative Law Judge and the parties rely on Chapman v. Beech Aircraft Corp., 258 Kan. 653, 907 P.2d 828 (1995). In Chapman, the claimant left the respondent's parking lot and crossed Central Street, heading towards the Beech Aircraft plant, when she was struck by a car. The Kansas Supreme Court found the special hazard exception of the going and coming rule of K.S.A. 44-508(f) to apply in that instance. The Supreme Court held that vehicle traffic may constitute a special hazard, depending upon the circumstances. Central Street was a very busy street in Wichita, and for the claimant to cross Central Street at that location constituted a special risk or hazard. In this instance, the intersection of 10th and Washburn, while being a fairly heavily traveled intersection, is, in most ways, very similar to many intersections in the city of Topeka. It has both

crossing lanes and traffic lights to control the traffic. At the time claimant was injured, she was crossing in the crossing lane and walking with the light.

A significant distinction between Chapman and the case at hand is that, in Chapman, the evidence convinced the Supreme Court that the route being used by the claimant was only used by company employees or persons dealing with the employer. In this instance, claimant acknowledged the intersection of 10th and Washburn and the crosswalk in which she was injured are regularly utilized by many Topeka citizens and other persons not doing business with the respondent. Located at that same intersection is the Topeka Public Library, a chiropractor's office and down the street are several medical and office buildings not connected to respondent hospital.

Finally, the Chapman accident occurred in January at approximately 6:40 in the morning when, as the Supreme Court noted, it would be dark. Here, claimant was injured at approximately 4:30 in the afternoon on February 2, when it would still be daylight.

After considering all the facts, the Appeals Board finds that claimant has not proven that she suffered accidental injury arising out of and in the course of her employment with respondent and that the Order Denying Compensation of Administrative Law Judge Brad E. Avery dated May 24, 2000, should be affirmed.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Order of Administrative Law Judge Brad E. Avery dated May 24, 2000, denying compensation to the claimant for the injury of February 2, 2000, should be, and is hereby, affirmed.

IT IS SO ORDERED.

Dated this ____ day of July 2000.

BOARD MEMBER

c: Frederick J. Patton, II, Topeka, KS
James C. Wright, Topeka, KS
Brad E. Avery, Administrative Law Judge
Philip S. Harness, Director